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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/825,918	04/03/2001	William T. Turner	12017-24/JWE	4546

7590

09/26/2003

STRADLING YOCCA CARLSON & RAUTH  
IP Department  
660 Newport Center Drive, Suite 1600  
P.O. Box 7680  
Newport Beach, CA 92660-6441

EXAMINER

FLETCHER, MARLON T

ART UNIT	PAPER NUMBER
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2837

DATE MAILED: 09/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/825,918

Applicant(s)

TURNER, WILLIAM T.

Examiner

Marlon T Fletcher

Art Unit

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 22-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 21.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Terminal Disclaimer***

1. The terminal disclaimer filed on 08/25/2003 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of Patent Nos. 6,291,758 and 6,291,759 has been reviewed and is accepted. The terminal disclaimer has been recorded.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kinman '999 or Blucher et al in view of Anderson '117.

Each patent discloses an upper and lower coil, and a single, flat non-magnetized ferromagnetic plate 41 disposed between two coils. Regarding claim 23, each patent discloses at least one magnetic pole piece partially with the upper coil and partially within the lower coil and extending through a hole in the ferromagnetic plate 41.

Regarding claim 24, at least one magnetic pole piece extends from above the upper coil. Neither Kinman '999 nor Blucher et al. disclose a completely flat ferromagnetic plate.

However, Anderson '117 discloses a pickup having a upper and lower coil (figures 2 and 4), having a completely flat flexible magnet plate (20) disposed between the two coils.

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the teachings of Anderson with either Kinman'999 or Blucher et al., because Kinman '999 and Blucher et al. provide all of the limitations, except for a completely flat plate. Anderson provides this additional feature for use with a pick up having an upper and lower coil. Although Anderson does not disclose ferromagnetic material, Anderson discloses magnetic material. Kinman and Blucher et al. provide ferromagnetic material. The ferromagnetic material means that the material is magnetizable. Anderson provides a magnet which means the material is magnetized. It would be obvious to combine the reference to provide a completely flat material whether the material be ferromagnetic or magnetic.

3. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kinman '520 or '966 in view of Anderson.

Each patent to Kinman discloses an upper coil 30, a lower coil 20, and a single non-magnetized ferromagnetic plate 41 disposed between two coils. The plate forms part of metallic shield of magnetically permeable material. The material is mild steel and non-magnetized. Neither reference discloses a completely flat plate.

However, Anderson '117 discloses a pickup having a upper and lower coil (figures 2 and 4), having a completely flat flexible magnet plate (20) disposed between the two coils.

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the teachings of Anderson with either Kinman '520 or '966, because Kinman '520 and '966 provide all of the limitations, except for a completely flat plate. Anderson provides this additional feature for use with a pick up having an upper and lower coil. Although Anderson does not disclose ferromagnetic material, Anderson discloses magnetic material. Kinman and Blucher et al. provide ferromagnetic material. The ferromagnetic material means that the material is magnetizable. Anderson provides a magnet which means the material is magnetized. It would be obvious to combine the reference to provide a completely flat material whether the material be ferromagnetic or magnetic.

4. Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kinman '999 or Blucher et al in view of Freeman '461.

Each patent discloses an upper and lower coil, and a single, flat non-magnetized ferromagnetic plate 41 disposed between two coils. Regarding claim 23, each patent discloses at least one magnetic pole piece partially with the upper coil and partially within the lower coil and extending through a hole in the ferromagnetic plate 41. Regarding claim 24, at least one magnetic pole piece extends from above the upper

coil. Neither Kinman '999 nor Blucher et al. disclose a completely flat ferromagnetic plate.

However, Freeman '117 discloses a pickup having a upper and lower coil (figure 3), having a completely flat flexible magnet plate (20) disposed between the two coils.

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the teachings of Freeman with either Kinman'999 or Blucher et al., because Kinman '999 and Blucher et al. provide all of the limitations, except for a completely flat plate. Anderson provides this additional feature for use with a pick up having an upper and lower coil. Freeman discloses a completely flat magnetic material. Kinman and Blucher et al. provide ferromagnetic material. The ferromagnetic material means that the material is magnetizable. Freeman provides a magnet which means the material is magnetized. It would be obvious to provide the claimed invention in view of combination, wherein the combination is merely used to provide the different material for providing the same result.

### ***Response to Arguments***

5. Applicant's arguments filed 08/25/2003 have been fully considered but they are not persuasive.

The examiner has carefully reviewed applicant's argument, and disagrees with the arguments. The examiner believes that the references are combinable and that the teachings meet the claimed limitations. Further, there is no disclosure in the

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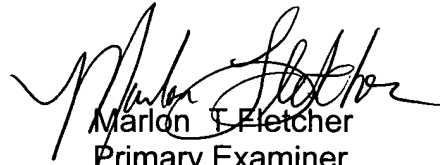
specification, stating that the ferromagnetic material is completely flat. At most the specification recites the ferromagnetic plate being sandwiched between plates 19 and 20. Further, there is no significant reason explaining the benefit of having a completely flat ferromagnetic plate. From that standpoint, it merely seems to be a design choice, which provides no utility. There is no patentable weight given to a mere design choice in a utility patent. Even if the specification supported the claim, it is still believed that the reference meet the teachings. Since the drawings do support the claims, the rejection above is made, taking into account the flat ferromagnetic material.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marlon T Fletcher whose telephone number is 703-308-0848. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Nappi can be reached on 703-308-3370. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.



Marlon T. Fletcher  
Primary Examiner  
Art Unit 2837

MTF  
September 24, 2003